

K&L|GATES

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January 28, 2008

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**VIA HAND DELIVERY AND ELECTRONIC FILING**

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 640  
New York, NY 10007  
Fax: (212) 805-6326

Re: *United States v. Marino* (05-1036)  
*United States v. Israel* (05-1039)  
*United States v. Marquez* (06-1138)

Dear Judge McMahon:

We represent the Official Creditors Committee of the Bayou Family of Companies (the "Committee") and write on behalf of the Committee to support the position of the United States Attorney in his letter of January 25, 2008 regarding restitution in the above-referenced cases. The undersigned individual Committee members and ex officio members join this letter in their individual capacities.

The United States Attorney proposes that the Bayou Victims' Restitution Fund be distributed in tranches, with an appropriate reserve established to protect the interests of adversary defendants in the Bayou bankruptcy with possible future claims. The Committee strongly urges the Court to agree to the proposed mechanism for distribution of Bayou's forfeited assets and not to delay any partial distributions to current victims pending resolution of all adversary proceedings.

If the Court establishes a reserve to protect the contingent interests of the Bayou adversary defendants, it is wholly unnecessary to delay a partial distribution from the Bayou Victims' Restitution Fund to Bayou's current identified victims. The adversary defendants will be more than fully protected by the reserve. Indeed, the adversary defendants' petitions acknowledge that the establishment of a reserve is entirely sufficient to protect their interests and, therefore, a delay of distributions to current victims pending resolution of their proceedings would be superfluous.

The current draft of the proposed restitution order received from the United States Attorney's office lists a total of \$309 million in victim claims. In addition, the adversary defendants

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The Honorable Colleen McMahon  
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have contingent claims which we estimate at \$85 million. Thus, any reserve amount would be established with the following formula:

$$\text{Reserve} = \text{Bayou Restitution Fund Total} \times \frac{\text{Total contingent victim claims}}{\left[ \text{Total non-contingent victim claims} + \text{Total contingent victim claims} \right]}$$

For example: assume that: (1) the amount of contingent victim claims is \$85 million, (2) the amount to be disbursed from the Bayou Victims' Restitution Fund is \$106 million, and (3) the amount of the non-contingent victim claims is \$309 million, then the amount of a reserve would be \$22.87 million [ $\$106\text{m} \times [\$85\text{m}/\$394\text{m}]$ ]. Thus the balance of \$83.13 million could be distributed to current victims while fully protecting the rights of the contingent victim claimants.

By establishing a reserve from the Bayou Victims' Restitution Fund that fully covers the maximum possible contingent claims of the adversary defendants, the United States Attorney's proposal to distribute the restitution funds in tranches will ensure that the adversary defendants are not prejudiced by any partial distribution to Bayou's identified current victims.

We request that the Court construe this letter as a motion pursuant to 18 U.S.C. § 3771(d)(3). We also request the opportunity to be heard regarding these matters at Marino's sentencing or in a separate hearing as established by the Court. Bayou's investor-victims have waited two and one-half years for the return of the money that Bayou's principals defrauded from them. Further delay of the initial distribution of the Bayou Victims' Restitution Fund will only cause Bayou's victims needless additional financial hardship.

Very truly yours,

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP

By

  
Richard A. Kirby

cc: See attached service list

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January 28, 2008

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 640  
New York, NY 10007

Re: *United States v. Marino* (05-1036)  
*United States v. Israel* (05-1039)  
*United States v. Marquez* (06-1138)

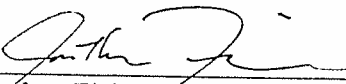
Dear Judge McMahon:

I, Jonathan Fisher, on behalf of Silver Creek Long/Short Holdings, L.L.C., a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee.

I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Sincerely yours,

Silver Creek Capital Management LLC,  
Managing Member of Silver Creek Long/Short Holdings, L.L.C.

  
\_\_\_\_\_  
Jonathan Fisher  
Secretary and General Counsel



Louis A. Isakoff  
*Vice President and General Counsel*

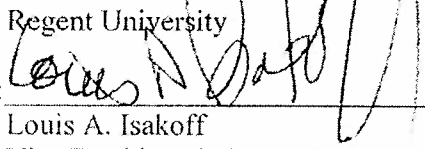
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New York, NY 10007

Re: *United States v. Marino (05-1036)*  
*United States v. Israel (05-1039)*  
*United States v. Marquez (06-1138)*

Dear Judge McMahon:

I, Louis A. Isakoff, on behalf of Regent University, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Regent University  
By:   
Louis A. Isakoff  
Vice President & General Counsel



The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 640  
New York, NY 10007

Re: *United States v. Marino* (05-1036)  
*United States v. Israel* (05-1039)  
*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I, Laurel T. Koen, on behalf of Leonard P. Pappas, L.P., a Bayou  
victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates  
to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I  
believe any further delay of distribution of the Bayou Victims' Restitution Fund would  
exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Laurel T. Koen  
6800 CAPITAL, LLC

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 640  
New York, NY 10007

Re: *United States v. Marino* (05-1036)  
*United States v. Israel* (05-1039)  
*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I Robert T. Keck, on behalf of Bayou Fund, L.P., a Bayou  
victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates  
to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I  
believe any further delay of distribution of the Bayou Victims' Restitution Fund would  
exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Robert T. Keck  
6800 CAPITAL, LLC

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 640  
New York, NY 10007

Re: *United States v. Marino* (05-1036)  
*United States v. Israel* (05-1039)  
*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I John H. Williams, on behalf of John H. Williams, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

John H. Williams

BAKER & DANIELS LLP

EST. 1863

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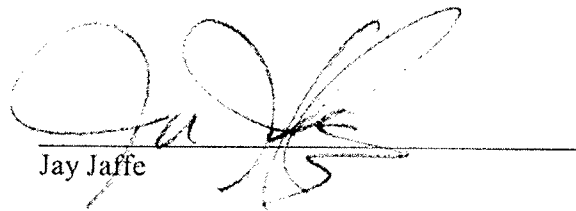
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Re: *United States v. Marino* (05-1036)  
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Dear Judge McMahon:

The undersigned, as attorney for and on behalf of DePauw University, a Bayou victim with a recognized claim in the amount of \$3,250,000 in the referenced cases, joins in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. Any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to DePauw University and other victims of the Bayou fraud.

Dated: January 28, 2008

  
Jay Jaffe



The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 640  
New York, NY 10007

Re: *United States v. Marino* (05-1036)  
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*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I Joe McNough, on behalf of Woodland Family Partners, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McNough / SPL

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan Courthouse  
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Re: *United States v. Marino* (05-1036)  
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*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Byron Foster Trust, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

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Joe McDonough / SPL

The Honorable Colleen McMahon  
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Re: *United States v. Marino* (05-1036)  
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Dear Judge McMahon:

I Joe McFonough, on behalf of Eye & Ear Foundation, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

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Joe McFonough / SPL

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Re: *United States v. Marino* (05-1036)  
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Dear Judge McMahon:

I Joe McMonagh, on behalf of Beckwith Investment, Ltd., a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McMonagh / SPL

The Honorable Colleen McMahon  
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500 Pearl Street, Room 640  
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Re: *United States v. Marino* (05-1036)  
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Dear Judge McMahon:

I Joe McDonough, on behalf of Weiner Investments LP, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

The Honorable Colleen McMahon  
United States District Judge  
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Re: *United States v. Marino* (05-1036)  
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*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Longboat Capital Partners, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

The Honorable Colleen McMahon  
United States District Judge  
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New York, NY 10007

Re: *United States v. Marino* (05-1036)  
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*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I Joe McDonough, on behalf of Muse Group, a Bayou  
victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates  
to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I  
believe any further delay of distribution of the Bayou Victims' Restitution Fund would  
exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

Joe McDonough / SPL

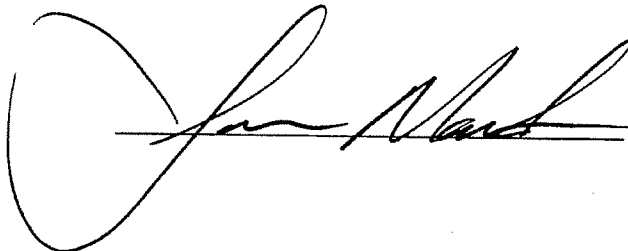
The Honorable Colleen McMahon  
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Re: *United States v. Marino* (05-1036)  
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*United States v. Marquez* (06-1138)

Dear Judge McMahon:

I James A. Martin, on behalf of Phoenixian Trading Partners LP, a Bayou victim with a recognized claim in the referenced cases, join in the letter submitted by K&L Gates to the Court dated January 28, 2008 on behalf of the Official Bayou Creditors' Committee. I believe any further delay of distribution of the Bayou Victims' Restitution Fund would exacerbate the financial distress and harm already caused to victims of the Bayou fraud.

Date: January 28, 2008

A handwritten signature in black ink, appearing to read "James A. Martin", written over a horizontal line.



## SERVICE LIST

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